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Jurisdictional Responsibilities for Land Resources, Land Use and
Development in the Yukon Territory and Northwest Territories


Northwest Territories Inuvialuit Settlement Region Lands



Canada

Jurisdictional Responsibilities
Book Two

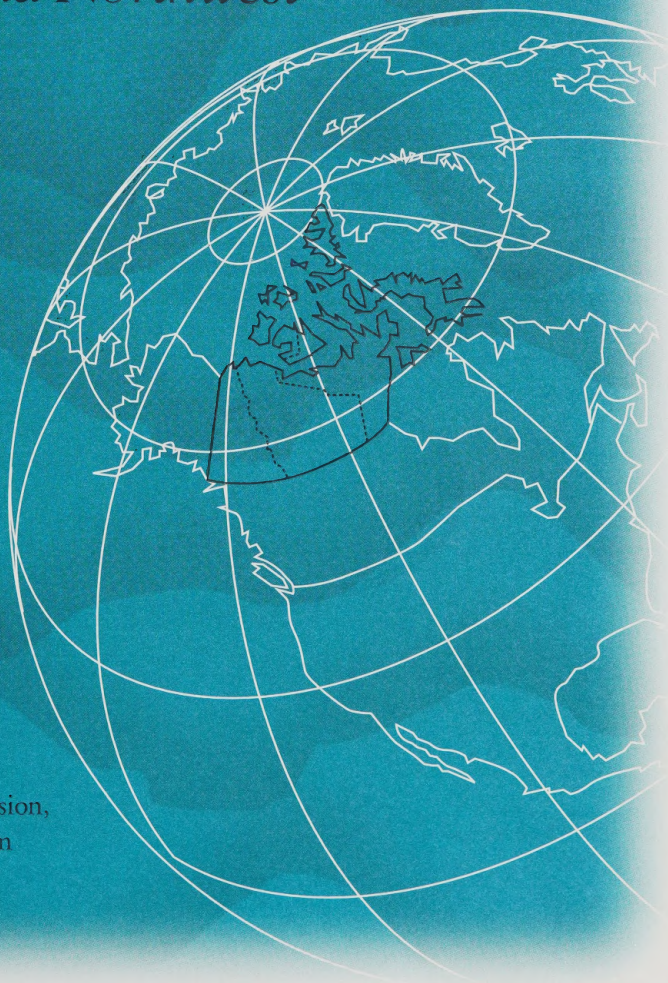
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*Jurisdictional Responsibilities
for Land Resources, Land Use
and Development in the Yukon
Territory and Northwest
Territories*



Land Management Division,
Northern Affairs Program

November 13, 1997

The Federal Government through the Minister of Indian Affairs and Northern Development is responsible for administering territorial lands and its resources in the Yukon Territory and the Northwest Territories through various Acts, including the *Territorial Lands Act*, and Regulations, *Yukon Waters Act*, *Canada Petroleum Resources Act*, *Yukon Placer Mining Act*, *Yukon Quartz Mining Act*, etc. Through the Land Claim process, jurisdictional responsibility over certain lands, resources and land uses has been transferred to various First Nations and to Aboriginal groups across the North.

In order to provide a clearer understanding of the jurisdictional framework that is evolving in the Yukon Territory and Northwest Territories, this set of guidelines has been prepared by the Land Management Division concerning "Jurisdictional Responsibilities for Land, Resources, Land Use and Development in the Yukon and Northwest Territories". These guidelines consist of eight (8) chapters, each chapter describes the jurisdictional regime of a particular geographic region and provides the answers as to which governing bodies should be consulted when making application for specific surface and sub-surface leases, permits, licences, or claims, etc.

Michael Fish, Head of Land Transactions, directed and coordinated the compilation of the guidelines which were written by Bill Biggs and edited by Allan Macartney. Bill Biggs is a lawyer having worked as a Director, Treasury Board Secretariat, implementing federal government policies, legislation and reform in the area of real property management. Allan Macartney is a professional writer and editor having over eighteen years of research and writing experience.

Ian Sneddon
Chief, Land Management Division
Environment and Renewable Resources Directorate
Northern Affairs Program
DIAND



This document recognizes the former managers of land resources in both territories and Ottawa, and their staffs, who contributed so much towards the solid framework for land resource management that exists in the North. Their names follow:

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IMPORTANT NOTE TO USERS

This document has been prepared for convenient reference only. It has no official sanction. For all purposes of interpreting and applying the law, and the land claims agreements, consult the Acts passed by Parliament and the land claim agreements themselves.

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Nord-Ouest visées par la Convention définitive des
Inuvialuit – Publication n°. deux*

Dramatic changes have occurred over the past fifteen years in the jurisdictional framework for land resources, land use and development in the Yukon Territory and the Northwest Territories. These changes are primarily a result of:

- federal legislation revisions;
- the impending creation of Nunavut;
- the finalization of Aboriginal land claim agreements; and
- the devolution of responsibilities from the federal to the territorial governments.

Jurisdictions will further change as these initiatives continue.

Jurisdictional responsibilities are described in this document as of August 31, 1996 for land resources, land use and development within the territories concerning:

- federal lands; and
- lands confirmed for Aboriginal groups under land claim agreement settlement legislation.

These responsibilities differ in some respects between the territories. Within each territory the responsibilities vary based on the particular land claim agreements involved. These variations are considered through the chapters of this document.

In each chapter, the jurisdictional regime for a particular geographic region are described, based on territory, then on the land claim agreements. For convenience, this document combines similar land claim agreements in the chapters relating to the Yukon First Nations and the Northwest Territories First Nations. Differences between the individual land claim agreements are noted where appropriate.

Each chapter dealing with land claim settlement areas, begins with a section on the settlement agreement. This section also describes the roles of administrative bodies (such as surface rights boards) established through the settlement agreements.

The second section of each chapter provides an overview of the region's general jurisdictional categories based on federal and Aboriginal land ownership. For example, there are three categories of land in the Yukon First Nation settlement areas in the Yukon Territory:

1. Settlement Lands to which the First Nations received title under their Land Claim Settlement Agreements;
2. Reserves under the *Indian Act*; and
3. Federal lands.

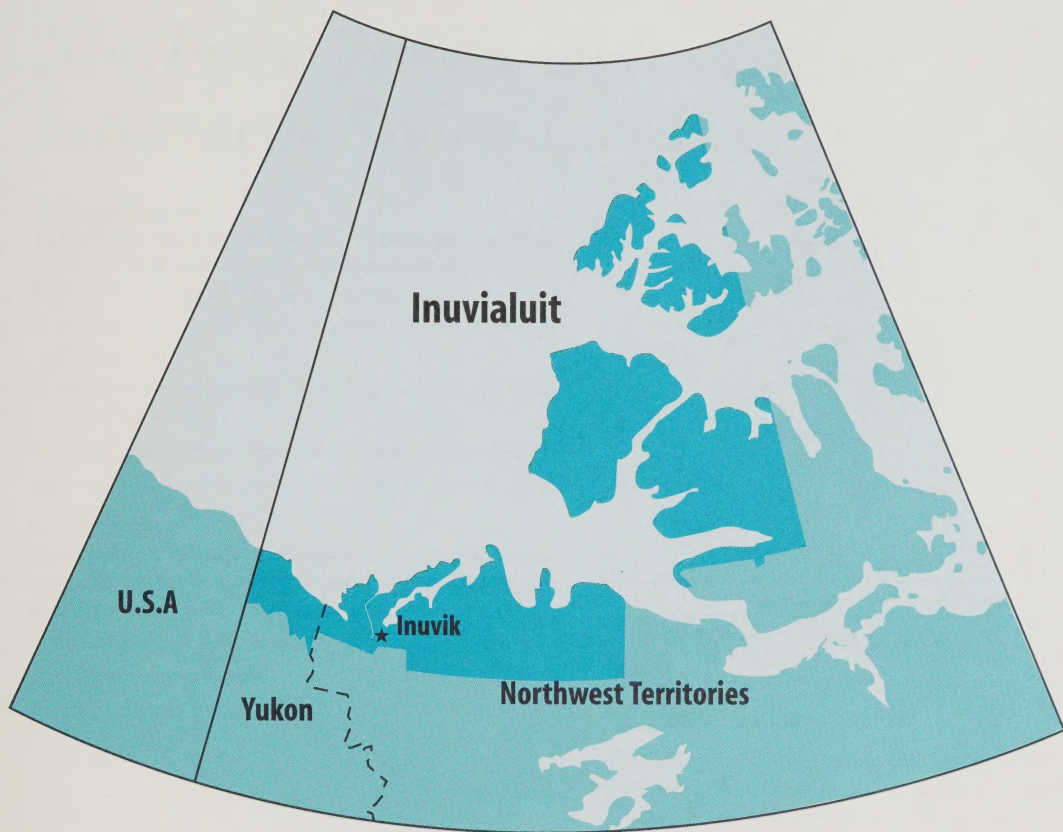
The remainder of each chapter analyses each region's land ownership categories. For the categories relating to settlement lands and federal lands, the jurisdictional regime is discussed under the following headings:

- Land Ownership;
- Land Use;
- General Access Rights;
- Non-Renewable Resources;
- Forestry and Plants;
- Water Use and Waste Deposit;
- Fish and Wildlife;
- Environmental Assessment; and
- Economic Development.

Note: Discussion of lands on reserves under the *Indian Act* is minimal. This text does not specifically examine lands administered by the territorial commissioners, nor does it discuss privately owned lands, or lands acquired by First Nations outside of the land claim settlement process.

Appendix A lists the legislation and the finalized land claim agreements examined in the preparation of this text. Legislation and land claim agreements are current as of August 31, 1996.

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Northwest Territories Inuvialuit Settlement Region Lands

Northwest Territories Inuvialuit Settlement Region Lands

Notes and Legend

This chapter covers the Northwest Territories portion of the Inuvialuit Settlement Area, an area commonly known as the Western Arctic Region. This area is bounded:

- on the west by the Yukon portion of the Inuvialuit Settlement Area;
- on the south by the Gwich'in and Sahtu Dene and Métis settlement areas; and
- on the south and east by the Nunavut Settlement Area.

Agreements and legislation are current as of August 31, 1996.

In this Chapter

Immediately before topic headings, this document notes relevant chapters in the land claims settlement agreements. You will find exceptions described in the text.

IFA: Inuvialuit Final Agreement.

GIC: Governor in Council.

NWT: Northwest Territories.



2.1 INUVIALUIT FINAL AGREEMENT

2.1.1 GENERAL NOTES

2.1.1.1 FINAL AGREEMENT

The Inuvialuit Final Agreement (IFA) is the final land claim settlement agreement in this area. The *Western Arctic (Inuvialuit) Claims Settlement Act*, Bill C-49, 1983-84 is the federal statute authorizing this land claim settlement. A summary of its provisions follows:

- “Agreement” means the agreement between the Committee for Original Peoples’ Entitlement (representing the Inuvialuit of the Inuvialuit Settlement Region), and Canada, dated June 5, 1984. It includes the amending agreement.
- “Amending agreement” means amending agreements made between the Inuvialuit Regional Corporation (representing the Inuvialuit) and Canada. It includes any other amending agreement made pursuant to the Agreement.

- “Territory” means the Northwest Territories, Yukon Territory and adjacent offshore areas not forming part of the NWT or the Yukon Territory, within the jurisdiction of Canada.
- Nothing in this Act prejudices the rights of the Inuvialuit:
 - as Canadian citizens;
 - arising from their status as Aboriginal people; or
 - arising from other legislation applicable to them.
- The Governor in Council may make regulations necessary to carry out the Agreement.
- This Act (or the Agreement) prevails if there is a conflict or inconsistency between this Act (or the Agreement) and any other law applying to the Territory.
- This Act does not grant any rights outside Canada.
- The Northern Yukon National Park is added to the National Parks Act.

2.1.1.2 GENERAL PROVISIONS

(Inuvialuit Final Agreement: Section 3)

The IFA is a land claims agreement under subsection 35(3) of the *Constitution Act*. The Inuvialuit release Aboriginal claims to land in the Northwest Territories, the Yukon Territory and offshore, subject to the settlement legislation.

The IFA can be amended by consent of the Governor in Council and the Inuvialuit, as represented by the Inuvialuit Regional Corporation.

2.1.2 DEFINITIONS

(Inuvialuit Final Agreement: Section 2)

The IFA uses the following definitions.

Developer:

This means a person, government or other legal entity owning, operating or causing to be operated, a development wholly or partially in the Inuvialuit Settlement Region. This definition includes any Inuvialuit developer.

Development:

This refers to:

- any commercial or industrial undertaking or venture (other than commercial wildlife harvesting). It includes support and transportation facilities relating to the extraction of non-renewable resources from the Beaufort Sea; or
- any government project, undertaking or construction (whether federal, territorial, provincial, municipal, local, Crown agency or corporation), except:
 - projects within community limits not directly affecting wildlife resources outside those limits; and
 - government wildlife enhancement projects.

Government:

This means the Government of Canada.

Inuvialuit community:

These include the communities of Aklavik, Holman, Inuvik, Paulatuk, Sachs Harbour or Tuktoyaktuk.

Inuvialuit lands:

These lands will be provided to the Inuvialuit under the Agreement.

Inuvialuit Settlement Region:

This region includes that portion of the Northwest Territories, the Yukon Territory and the adjacent offshore area described in the IFA.

Western Arctic Region:

This region includes that portion of the Inuvialuit Settlement Region not found in the Yukon Territory.

Wildlife:

Wildlife does not include reindeer.

2.1.3 ADMINISTRATIVE BODIES

2.1.3.1 LAND USE PLANNING GROUP

(Inuvialuit Final Agreement: Section 7)

An area-specific group will deal only with land use planning for the Inuvialuit Settlement Region. This group will be a part of any territorial Land Use Planning Commission. Conditions apply to membership in the group.

2.1.3.2 WILDLIFE MANAGEMENT ADVISORY COUNCIL (NORTH SLOPE)

(Inuvialuit Final Agreement: Section 12)

The Wildlife Management Advisory Council (North Slope) was established after the signing of the IFA. Although Council jurisdiction is limited to the Yukon portion of the Inuvialuit Settlement Region, some of its powers may apply to the Northwest Territories portion of the Region. The Council's duties include:

- advising appropriate Ministers on wildlife policy and management; and
- advising on habitat protection measures taken under a certain part of IFA.

2.1.3.3 WILDLIFE MANAGEMENT ADVISORY COUNCIL (NWT)

(Inuvialuit Final Agreement: Section 14)

The Wildlife Management Advisory Council (NWT), as described in the IFA, has jurisdiction over the Northwest Territories portion (including adjacent nearshore and offshore waters) of the Inuvialuit Settlement Region. The IFA sets out its composition and practice.

Council duties include:

- providing advice to appropriate Ministers on wildlife policy and management in the Western Arctic Region (on request);
- advising wildlife management boards, land use commissions, the Screening Committee and Review Board, and other appropriate bodies on issues relating to the Western Arctic Region;
- preparing a wildlife conservation and management plan for the Western Arctic Region and recommending it to appropriate authorities;
- determining and recommending appropriate Inuvialuit harvesting quotas in the Western Arctic Region;

- determining and recommending non-Inuvialuit Native peoples' harvesting quotas for caribou (and other migratory animals in the IFA) inside or outside the Western Arctic Region;
- advising government on wildlife legislation;
- advising on habitat protection measures for the Western Arctic Region; and
- requesting (if appropriate) participation of Hunter's and Trapper's Committees when Council manages the subsistence harvest.

2.1.3.4 FISHERIES JOINT MANAGEMENT COMMITTEE

(Inuvialuit Final Agreement: Section 14)

The federal Minister of Fisheries and Oceans established the Fisheries Joint Management Committee under the IFA. This Committee advises on matters relating to Inuvialuit and Inuvialuit Settlement Region fisheries. The Council:

- undertakes certain roles relating to fishing on Inuvialuit and Crown lands;
- develops and manages a public registration system for fishing on Inuvialuit lands, and for entry on Inuvialuit 7(i)(b) lands for fishing;
- restricts and regulates the public right of access to Inuvialuit 7(i)(b) lands for fishing (where required for conservation purposes, or to prevent interference with Inuvialuit activities or use of land);
- allocates subsistence quotas among communities.

2.1.3.5 INUVIALUIT GAME COUNCIL

(Inuvialuit Final Agreement: Section 14)

The Inuvialuit Game Council represents the final Inuvialuit authority in wildlife, under the IFA. Council duties include:

- appointing Inuvialuit members to all joint government/Inuvialuit bodies, as well as other bodies interested in wildlife, including those under the IFA;

- advising government on wildlife issues, either on its own or through the Wildlife Management Advisory Councils (NWT and North Slope);
- assigning community hunting and trapping areas within the Inuvialuit Settlement Region, where appropriate; and
- allocating Inuvialuit quotas among communities, where appropriate.

2.1.3.6 INUVIALUIT HUNTERS AND TRAPPERS COMMITTEE

(Inuvialuit Final Agreement: Section 14)

Each Inuvialuit Community Corporation establishes a community Hunter's and Trapper's Committee. The Committee's duties include:

- advising the Inuvialuit Game Council on local wildlife matters;
- making bylaws (enforceable under the NWT Wildlife Ordinance and subject to laws of general application) governing the exercise of certain Inuvialuit preferential harvest rights under the IFA; and
- sub-allocating quotas.

2.1.3.7 RESEARCH ADVISORY COUNCIL

(Inuvialuit Final Agreement: Section 14)

The Research Advisory Council is established under the IFA as a research and advisory group. All persons conducting research in the Inuvialuit Settlement Region may become members.

2.1.3.8 ENVIRONMENTAL IMPACT SCREENING COMMITTEE

(Inuvialuit Final Agreement: Section 11)

The IFA established an Environmental Impact Screening Committee with seven members. Three are nominated each by Canada and the Inuvialuit. The Committee's Chair is appointed by Canada, with consent of the Inuvialuit. The IFA sets out the Committee's powers and rules.

The following are subject to environmental impact screening:

- developments of consequence to the Inuvialuit Settlement Region, likely to have a negative environmental impact;
- certain developments in the Yukon North Slope region;
- developments in the Inuvialuit Settlement Region, where Inuvialuit request environmental screening; and
- developments where traditional harvest of the Dene/Métis may be adversely affected (on request of the Dene/Métis or Inuvialuit). This is subject to agreement between the Dene/Métis and Inuvialuit.

2.1.3.9 ENVIRONMENTAL IMPACT REVIEW BOARD

(Inuvialuit Final Agreement: Section 11)

The IFA established an Environmental Impact Review Board. Its composition is identical to the Screening Committee's, except the territory nominee comes from the territory in which the development is to take place.

No licence or approval will be issued permitting any proposed development, until the environmental impact screening and review provisions of the IFA are followed.

Nothing in the IFA's environmental impact section restricts the power or obligation of Canada to carry out environmental impact assessment and review under federal laws and policies.

2.1.3.10 ARBITRATION BOARD

(Inuvialuit Final Agreement: Section 18)

The IFA identifies the composition, powers and procedures of the Arbitration Board. The Arbitration Board has authority to resolve:

- disputes relating to land matters in
 - certain municipal needs,
 - certain road requirements,
 - DeSalis Bay land selection,
 - Pingo Landmark,
 - Nelson Head Landmark;
- certain conflicting subsurface resource claims;

- certain sand and gravel disputes;
- compensation for certain land taken for meteorological stations;
- expropriation of Inuvialuit lands;
- terms and conditions of Participation Agreements; and
- certain wildlife compensation awards, recommendations and decisions.

2.I.3.II YUKON NORTH SLOPE ANNUAL CONFERENCE

(Inuvialuit Final Agreement: Section 12)

The IFA discusses the Yukon North Slope Annual Conference.

2.I.4 OTHER ABORIGINAL PEOPLES

2.I.4.I INUVIALUIT SETTLEMENT AGREEMENT

(Inuvialuit Final Agreement: Section 3)

The Inuvialuit land claim settlement does not affect Aboriginal rights of other Aboriginal peoples, based on traditional use and occupancy of lands (and negotiation of land claims settlement respecting these rights). Any rights extended in the Inuvialuit Settlement Region to other Aboriginal peoples, based on traditional use and occupancy, will not prejudice the rights of the Inuvialuit under the IFA.

The Inuvialuit may enter into agreements with organizations representing neighbouring Aboriginal groups to resolve mutual or overlapping interests, or to share rights, privileges and benefits.

The Inuvialuit and Aboriginal groups in adjacent land claim areas may enter into agreements regarding wildlife harvesting and management. (Inuvialuit Final Agreement: Section 14)

Through land claim settlements, Canada may provide other Aboriginal peoples with harvesting rights to certain wildlife species in the Inuvialuit Settlement Region. This is limited to species and areas traditionally used by those Aboriginal peoples. The exercise of such rights in the Inuvialuit Settlement Region must follow the same conditions that apply to the Inuvialuit. Exercise of such rights must also be subject to reciprocal harvesting rights for Inuvialuit traditional species and areas in other regions. (Inuvialuit Final Agreement: Section 14)

Dene/Métis Membership

Dene/Métis traditional harvesters have the right to appoint an additional member to certain administrative bodies under the IFA. The member's voting rights are limited to matters concerning traditional Dene/Métis harvest in the Inuvialuit Settlement Region. This right is conditional upon the Inuvialuit receiving reciprocal rights from the Dene/Métis. Canada can appoint an additional member to the administrative bodies to maintain equivalent representation. (Inuvialuit Final Agreement: Section 14)

Other Representation on Environmental Impact Screening Committee

The IFA contains a power to add one member nominated by an adjacent lands claims group. The member may join the Environmental Impact Screening Committee, if that group considers a development is capable of negative environmental impact (to the detriment of Aboriginal people using or occupying the Inuvialuit Settlement Region). (Inuvialuit Final Agreement: Section 11)

2.I.4.2 SAHTU DENE AND MÉTIS SETTLEMENT AGREEMENT

The Inuvialuit and participants under Chapter 28 of the Sahtu Dene and Métis Settlement Agreement can share wildlife resources, and enter into harvesting and wildlife management agreements under 14(15) of the IFA.

2.I.4.3 GWICH'IN SETTLEMENT AGREEMENT

Under Chapter 27 of the Gwich'in Settlement Agreement:

- the Gwich'in Tribal Council can exchange lands with the Inuvialuit. Any Inuvialuit lands received in exchange shall be deemed to be Gwich'in lands under the Gwich'in Settlement Agreement.
- the Gwich'in right to harvest wildlife on Gwich'in lands (under the Gwich'in Settlement Agreement) applies to Gwich'in lands and on/in overlying waters in the Western Arctic Region. Wildlife management provisions in the IFA apply to such lands and waters.
- the provisions of the Gwich'in FA apply to Gwich'in lands in the Western Arctic Region, except for certain provisions relating to administrative bodies.

2.2 JURISDICTIONAL CATEGORIES

Two jurisdictional categories of land exist in the Inuvialuit Settlement Region in the Northwest Territories:

1. *Inuvialuit lands under the IFA*. The Inuvialuit hold these in three ways:
 - a. Category 7(1)(a) Inuvialuit Lands. Here the Inuvialuit have a fee simple title in the lands, and subsurface title to all mines and minerals. For these lands, the Inuvialuit act in general as private landowners. The lands are not federal lands, and any federal jurisdiction over the lands comes from the IFA.
 - b. Category 7(1)(b) Inuvialuit Lands. Here the Inuvialuit have a fee simple title in the lands excluding mines and minerals (other than specified substances such as sand and gravel). The lands are not federal lands, and any federal jurisdiction over the lands or the specified substances comes from the IFA. The federal government has the subsurface title to mines and minerals (other than specified substances), and retains jurisdiction over them, subject to the IFA.
 - c. Fee simple absolute title to the beds of all lakes, rivers and other water bodies found in Inuvialuit lands.
2. *Federal lands*. The federal government has jurisdiction over them subject to the IFA.

Note: Reserves under the *Indian Act*, if any, and Commissioner's lands are not discussed.

2.3 INUVIALUIT LANDS

2.3.1 LAND OWNERSHIP

(*Inuvialuit Final Agreement: Section 7*)

The Inuvialuit received title to the following lands under the Settlement legislation:

- approximately 4,200 square miles of land in fee simple absolute (including all minerals whether solid, liquid or gaseous and all granular materials) selected in the Western Arctic Region, in blocks of 700 square miles (more or less) near each of the six communities. This is subject to subsurface alienations, and existing surface rights for limited terms, both listed in the IFA. These lands are referred to as "section 7(1)(a)(i) lands."
- a single block of approximately 800 square miles of land in fee simple absolute (including all minerals whether solid, liquid or gaseous and all granular materials) in Cape Bathurst. Subject to the IFA, any alienations shall be terminated by Canada and the present moratorium on exploration and development shall continue until the time of conveyance. These lands are referred to as "section 7(1)(a)(ii) lands."
- approximately 30,000 square miles of lands in fee simple absolute (excluding oil, gas, related hydrocarbons, coal, native sulfur and minerals), subject to alienations for limited terms listed in the IFA. This does not affect holders of valid subsisting rights, granted pursuant to the *Territorial Lands Act* or its regulations and other appropriate legislation, and renewals of those rights. These lands are referred to as "section 7(1)(b) lands."
- fee simple absolute title to the beds of all lakes, rivers and other water bodies found in Inuvialuit lands.

The IFA describes Inuvialuit lands. Title to Inuvialuit lands is subject to easements, servitudes and rights-of-way listed in the IFA. The Crown retains ownership of waters in the settlement region.

All selected lands were transferred to the Inuvialuit Land Corporation (or the Inuvialuit Regional Corporation), for the Inuvialuit Land Corporation. Initially, the Inuvialuit Regional Corporation received the Inuvialuit lands for transfer to the

Inuvialuit Land Corporation. (Inuvialuit Final Agreement: Section 6)

Title to Inuvialuit lands may only be conveyed to Inuvialuit persons or corporations, or to the federal Crown, subject to any agreements with adjoining First Nations. Leases and resource dispositions may be made to persons or corporations in accordance with the IFA and laws of general application. The Inuvialuit Land Corporation may exchange lands with Canada.

Inuvialuit lands may be expropriated only by order of the Governor in Council. Compensation should be in the form of replacement lands, if possible. Replacement lands are deemed to be Inuvialuit lands.

2.3.2 LAND USE

2.3.2.1 ADMINISTRATIVE BODIES

Under the IFA, the Arbitration Board can resolve certain land use questions. Please see 2.1.3 for further information.

The Inuvialuit Regional Corporation (and its division, the Inuvialuit Lands Administration) administers Inuvialuit lands.

2.3.2.2 GENERAL

(Inuvialuit Final Agreement: Section 7)

Laws of general application applying to private lands (including territorial laws and ordinances) apply to Inuvialuit lands and are subject to the IFA. The Inuvialuit enjoy all rights of property owners under laws of general application. The Inuvialuit and the Crown can agree to apply Crown lands laws and regulations to Inuvialuit lands.

Inuvialuit lands are not lands reserved for Indians.

The Inuvialuit Regional Corporation administers Inuvialuit lands through its division, the Inuvialuit Land Administration. (Inuvialuit Final Agreement: Section 6)

2.3.2.3 METEOROLOGICAL STATIONS

(Inuvialuit Final Agreement: Section 7)

Canada reserves the right to establish new meteorological and climatological stations on Inuvialuit 7(1)(b) lands.

2.3.2.4 COMMUNITY CORPORATIONS

(Inuvialuit Final Agreement: Section 6)

Each community corporation shall control any development activity approved by the Inuvialuit Land Administration, or the Inuvialuit Regional Corporation, in the block of Inuvialuit 7(1)(a) lands selected near their community.

2.3.2.5 WILDLIFE COMPENSATION

(Inuvialuit Final Agreement: Section 13)

The IFA provides for financial liability of developers (other than government, but including Crown corporations), for developments in the Inuvialuit Settlement Region. In Inuvialuit 7(1)(a) lands, this only applies to development of rights existing at the time the IFA took affect. Compensation is payable for actual wildlife loss arising from the development. The IFA sets out the claims, mediation and arbitration procedures for wildlife compensation. The Arbitration Board can settle disputes.

2.3.2.6 MUNICIPAL PURPOSES AND PUBLIC ROADS

(Inuvialuit Final Agreement: Section 7)

The IFA provides for:

- a negotiated agreement if Inuvialuit lands are needed for municipal purposes; and
- a negotiated agreement and land replacement if government wants to expropriate Inuvialuit lands for public roads.

2.3.2.7 SPECIAL AREAS

Special considerations apply to lands in the following areas:

- DeSalis Bay;
- Pingo Canadian Landmark; and
- Nelson Head Canadian Landmark. (Inuvialuit Final Agreement: Section 7)

In certain parts of the Husky Lakes/Cape Bathurst areas, the IFA sets up a special regime for development. If development is allowed, generally it must follow environmental standards set by the Environmental Impact Review Board. (Inuvialuit Final Agreement: Section 8)

2.3.2.8 SPECIAL PROVISIONS

(Inuvialuit Final Agreement: Section 7)

Migratory Bird Sanctuary Regulations will continue to apply to Inuvialuit lands within Anderson River Bird Sanctuary and Banks Island Bird Sanctuaries.

Canada may establish navigation aids along shorelines of unoccupied Inuvialuit lands (except for certain lands in the Husky Lakes areas). Canada can expropriate land that is required for over one year at a particular site.

Canada may conduct dredging operations for transportation purposes on all navigable waters within Inuvialuit lands, except for certain lands in the Husky Lakes areas.

2.3.3 GENERAL ACCESS RIGHTS

2.3.3.1 ADMINISTRATIVE BODIES

The Inuvialuit Land Administration administers access rights to Inuvialuit lands.

The Arbitration Board can resolve certain disputes under the IFA. Please see 2.1.3 for further information.

2.3.3.2 PARTICIPATION AGREEMENTS

(Inuvialuit Final Agreement: Section 10)

The Inuvialuit Land Administration guarantees access on, and across, Inuvialuit lands for exploration, development and production activities by:

- holders of rights and interests issued by Canada on Inuvialuit 7(1)(a) lands; and
- holders of petroleum, coal or mineral rights or interests issued by Canada on Inuvialuit 7(1)(b) lands.

A developer must pay fair compensation to the Inuvialuit for:

- the access right itself;
- any damage to Inuvialuit lands; and
- any lessening of value of Inuvialuit interests in their lands.

Before exercising the access right, a developer must conclude a participation agreement with the Inuvialuit Land Administration, unless otherwise agreed by the Inuvialuit Land Administration. The agreement sets out the rights and obligations of the parties concerning the activity. The IFA discusses terms and conditions (including rent) of the participation agreement. If negotiations fail, the matter shall be referred to the Arbitration Board.

2.3.3.3 GENERAL

(Inuvialuit Final Agreement: Section 7)

Canada reserves a right of access on Inuvialuit lands 100 feet from the edge of the sea coast, navigable rivers and lakes that can be entered from the sea. This access is limited for travel, recreation and emergency. It does not permit development activity or wildlife harvesting.

Public access to unoccupied Inuvialuit lands is subject to IFA conditions. A person may:

- enter and stay on lands, without notice, temporarily for emergency purposes;
- cross lands without notice to exercise a right on adjacent lands; and

- enter for recreation. Notice and permission is required when recreation use is more than casual and individual in nature.

The IFA sets out access rights for government employees and the military.

Private, commercial access to Inuvialuit lands is permitted upon prior notice. This is subject to the IFA, and applies to access:

- in order to reach non-Inuvialuit lands to exercise rights of a casual nature relating to investigative and preliminary work on those lands;
- in order to reach non-Inuvialuit lands to exercise rights, where access is significant but temporary (subject to negotiation with the Inuvialuit of a right of way agreement);
- in order to reach non-Inuvialuit lands to exercise rights, where access requires a permanent right of way (subject to a participation agreement); and
- to enter Inuvialuit lands to exercise interests in, or on, those lands (subject to participation agreements).

Access rights are an interim measure, except for military and where access is agreed under participation agreements. They cease to apply when laws of general application (relating to access to private lands) are enacted for lands in the Western Arctic Region.

2.3.4 NON-RENEWABLE RESOURCES

2.3.4.1 ADMINISTRATIVE BODIES

The Inuvialuit Land Administration administers Inuvialuit lands; the federal government administers certain mineral rights on these lands.

The Arbitration Board may resolve certain disputes under the IFA. Please see 2.1.3 for further information.

2.3.4.2 ADMINISTRATION OF EXISTING RIGHTS

(Inuvialuit Final Agreement: Section 7)

Subject to the IFA, holders of oil and gas, coal, mineral and quarrying rights on Inuvialuit 7(1)(a) lands (as listed in the IFA), and holders of quarrying rights issued before December 31, 1983 on Inuvialuit (1)(b) lands, are entitled to enjoy the rights (including renewals) until termination.

Canada shall continue to administer the rights of these interest holders. Certain discretionary decisions shall be made with the consent of the Inuvialuit, where the economic interest of the Inuvialuit is prejudiced. Administration of the rights can be transferred to the Inuvialuit, if the holder and the Inuvialuit agree.

2.3.4.3 SAND AND GRAVEL

(Inuvialuit Final Agreement: Section 7)

There are three priorities for use of sand and gravel on Inuvialuit lands.

- First priority goes to the Inuvialuit for community and private use.
- Second priority also goes to the Inuvialuit to reserve an adequate supply of sand and gravel (of appropriate quality) for direct, private and corporate needs.
- Third priority goes to any project approved by an appropriate government agency.

The Inuvialuit and the federal or NWT Government can establish zones within the Western Arctic Region (including Inuvialuit lands) where the removal of sand and gravel is prohibited for all or part of a year.

The Ya Ya Lakes eskers deposits on Inuvialuit lands are dedicated to sand and gravel development.

Before anyone removes sand and gravel from Inuvialuit lands, he or she must obtain a licence or concession from the Inuvialuit Land Administration. The IFA contains various conditions on rights, fees and royalties payable. Government can offer a concession on a competitive bid basis under certain conditions.

2.3.4.4 NEW MINERAL RIGHTS

(Inuvialuit Final Agreement: Section 7)

Where the Inuvialuit dispose of new oil, gas, minerals, sand, gravel and rock rights on their lands, the Inuvialuit Land Administration may set terms and conditions (concerning the environment and safety) that equal or exceed laws of general application.

2.3.5 FORESTRY AND PLANTS

The IFA has no special provisions relating to forestry and plants.

2.3.6 WATER USE AND WASTE DEPOSIT

(Inuvialuit Final Agreement: Section 7)

Canada retains the right to control and manage water bodies for purposes of:

- wildlife management,
- navigation and flood control, and
- protection of community water supplies from contamination,

notwithstanding Inuvialuit ownership of the beds of water bodies.

2.3.7 FISH AND WILDLIFE

2.3.7.1 ADMINISTRATIVE BODIES

The following administrative bodies have certain roles in fish and wildlife management and research under the IFA:

- the Wildlife Management Advisory Council (North Slope);
- the Wildlife Management Advisory Council (NWT);
- the Fisheries Joint Management Committee;
- the Inuvialuit Game Council;
- the Inuvialuit Hunter's and Trapper's Committees;
- the Research Advisory Council; and
- the Yukon North Slope Annual Conference.

Please see section 2.1.3 for further information.

2.3.7.2 GENERAL

The NWT Government continues to exercise its same jurisdiction over game management, subject to the IFA. The NWT Government may continue to pass game management legislation consistent with the IFA and the settlement legislation. (Inuvialuit Final Agreement: Section 3)

The rights to hunt fish and trap (granted under the IFA) extend to all rivers, lakes and water bodies within Inuvialuit lands, notwithstanding Canada's ownership of water within Inuvialuit 7(1)(b) lands, and subject to the IFA. In a certain area in the Husky Lakes area, Canada will endeavour to see that the Inuvialuit are the only persons allowed to harvest migratory game birds. (Inuvialuit Final Agreement: Section 7)

2.3.7.3 WILDLIFE HARVESTING AND MANAGEMENT

(Inuvialuit Final Agreement: Section 14)

The Inuvialuit have certain preferential rights to harvest wildlife in the Western Arctic Region, subject to laws of general application concerning public safety and conservation. Subject to the IFA, the harvesting rights include:

- a preferential right to harvest all species of wildlife (except migratory non-game birds and migratory insectivorous birds) for subsistence usage throughout the Western Arctic Region;
- the exclusive right to harvest furbearers (including black and grizzly bears) throughout the Western Arctic Region;
- the exclusive right to harvest polar bears and musk-oxen throughout the Western Arctic Region; and
- the exclusive right to harvest game on Inuvialuit lands and, if agreed, on other areas.

Subsistence harvesting rights extended to other Aboriginal peoples under the IFA shall be taken into account when setting quotas and conservation limits.

The IFA places certain conditions on the Inuvialuit to permit non-Inuvialuit to harvest game, polar bears and furbearers in the Western Arctic Region.

The IFA sets out rights to trade game products, and to trade fish and marine mammal products.

The Inuvialuit and Aboriginal groups in adjacent land claim areas may enter into agreements concerning wildlife harvesting and management.

Through land claim settlements, Canada may provide other Aboriginal peoples with harvesting rights to certain wildlife species in the Inuvialuit Settlement Region. These may only be limited to species and areas traditionally used by those other Aboriginal peoples. These rights in the Inuvialuit Settlement Region must follow the same conditions as apply to Inuvialuit. They are subject to reciprocal harvesting rights for Inuvialuit traditional species and areas in other regions.

Non-Inuvialuit Aboriginal peoples may continue to harvest their traditional wildlife species in their traditional areas of the Inuvialuit Settlement Region, on the same basis as the Inuvialuit, if the same privilege is extended to Inuvialuit outside the Inuvialuit Settlement Region.

The IFA retains some existing harvesting licence holders' rights.

Certain IFA provisions (that deal with wildlife harvesting in the Yukon North Slope) apply to wildlife harvesting in other areas.

2.3.7.4 FISHERIES

(Inuvialuit Final Agreement: Section 14)

The fisheries provisions in the IFA apply throughout the Inuvialuit Settlement Region. The Inuvialuit have the preferential right within the Region to harvest fish for subsistence use. The Inuvialuit shall be issued non-transferable, commercial licences, subject to quotas and past harvests.

The Inuvialuit have first priority for harvesting marine mammals within the Inuvialuit Settlement Region.

2.3.7.5 PUBLIC RIGHT OF ENTRY FOR FISHING

(Inuvialuit Final Agreement: Section 7)

The Inuvialuit have sole discretion to grant entry across and on Inuvialuit 7(1)(a) lands for fishing purposes.

Persons may enter Inuvialuit 7(1)(b) lands for sport and commercial fishing in waters within such lands, or on Crown lands

beyond those lands. These persons may erect temporary facilities and carry out ancillary activities if they:

- have the appropriate fishing licence;
- register in the appropriate registry under the IFA; and
- do not fish in prohibited areas.

Contravening these provisions makes a person a trespasser.

Persons fishing in waters located within Inuvialuit 7(1)(a) or (1)(b) lands must first register with the appropriate Hunter's and Trapper's Committee, or its agent.

The granting of the right of public entry shall not place the Inuvialuit under any legal or statutory liability.

2.3.7.6 WILDLIFE MANAGEMENT PROCESSES

(Inuvialuit Final Agreement: Section 14)

The IFA sets out principles and procedures that government will use when setting wildlife harvesting quotas.

Canada will consult with the Inuvialuit Game Council before entering into new international agreements affecting wildlife harvesting in the Inuvialuit Settlement Region.

The IFA discusses the management of caribou and other species.

2.3.8 ENVIRONMENTAL ASSESSMENT

2.3.8.1 ADMINISTRATIVE BODIES

The Environmental Impact Screening Committee and the Environmental Impact Review Board have certain environmental assessment roles in the Inuvialuit Settlement Region. Please refer to section 2.1.3 for further information.

2.3.8.2 GENERAL

(Inuvialuit Final Agreement: Section 11)

Environmental impact screening will be conducted for:

- developments likely to have a negative environmental impact in the Inuvialuit Settlement Region;
- certain developments in Yukon North Slope region;

- developments in Inuvialuit Settlement Regions where Inuvialuit request environmental screening; and
- developments where the traditional harvest of the Dene/Métis may be adversely affected. This will be done on request of the Dene/Métis or the Inuvialuit. This is subject to agreement between the Dene/Métis and the Inuvialuit.

Until environmental impact screening and review provisions of the IFA are followed, no licence or approval shall be issued permitting any proposed development.

Nothing in the environmental impact section of the IFA restricts Canada's power or obligation to carry out an environmental impact assessment and review under federal laws and policies.

2.3.9 ECONOMIC DEVELOPMENT

(Inuvialuit Final Agreement: Section 16)

Each application for exploration, development or production rights on 7(1)(b) lands within the Inuvialuit Settlement Region, shall consider and apply general government guidelines relating to social and economic interests to favour Aboriginal peoples. Inuvialuit Land Administrators, and rights holders on Inuvialuit lands, may enter into cooperation agreements that may supersede the need for guidelines.

The Inuvialuit have a first priority in the Western Arctic Region for:

- guiding,
- outfitting, or
- other commercial activities related to wildlife

authorized by government. The preferential treatment of the Inuvialuit shall not affect the ability of any other Aboriginal group to obtain like, or better, treatment under an agreement. Until such an agreement, the priority of the Inuvialuit shall not favour the Inuvialuit over any other Aboriginal group in the Western Arctic Region. (Inuvialuit Final Agreement: Section 14)

If any other Aboriginal group is granted preferential economic treatment (affecting the Western Arctic Region), the Inuvialuit shall be granted like preferential treatment in that other group's region and shall be treated no less favourably in the Western Arctic Region. (Inuvialuit Final Agreement: Section 14)

The IFA gives the Inuvialuit the first right on publicly-tendered government contracts relating to activities in the Inuvialuit Settlement Region and Inuvialuit communities. (Inuvialuit Final Agreement: Section 14)

The Inuvialuit have a right to be awarded publicly tendered government contracts to develop resources on Crown lands, if they submit the best proposal.

The Inuvialuit Development Corporation may hold up to 10 prospecting permits and 25 mining claims at any time. These are subject to special conditions.

Under the Territorial Coal Regulations, Canada will issue to Inuvialuit local use coal permits, free of charges, to:

- explore,
- develop, and
- mine

coal in the Inuvialuit Settlement Region for community use and regional industrial use by the Inuvialuit Development Corporation.

2.4 FEDERAL LANDS

The jurisdictional regime is the same as under Chapter 8 of this document, “Other Northwest Territories Federal Lands,” except as follows.

2.4.1 LAND OWNERSHIP

No special IFA provisions relate to federal land ownership in the Inuvialuit Settlement Region.

2.4.2 LAND USE

2.4.2.1 ADMINISTRATIVE BODIES

The Arbitration Board can resolve certain land use questions under the IFA. Please see 2.1.3.10 for further information.

2.4.2.2 WILDLIFE COMPENSATION

(Inuvialuit Final Agreement: Section 13)

The IFA provides for financial liability of developers (other than government, but including Crown corporations), for developments in the Inuvialuit Settlement Region. Compensation is payable for actual wildlife loss arising from the development. The IFA sets out the claims, mediation and arbitration procedures for wildlife compensation. The Arbitration Board can settle disputes.

2.4.3 GENERAL ACCESS RIGHTS

No special provisions in the IFA relate to access to federal land in the Inuvialuit Settlement Region.

2.4.4 NON-RENEWABLE RESOURCES

2.4.4.1 SAND AND GRAVEL

(Inuvialuit Final Agreement: Section 7)

The Inuvialuit and the federal or NWT Government can establish zones within the Western Arctic Region, where removal of sand and gravel is prohibited for all or part of a year.

2.4.5 FORESTRY AND PLANTS

No special IFA provisions relate to forestry resources on federal land in the Inuvialuit Settlement Region.

2.4.6 WATER USE AND WASTE DEPOSIT

No special IFA provisions relate to water use on federal land in the Inuvialuit Settlement Region.

2.4.7 FISH AND WILDLIFE

2.4.7.1 ADMINISTRATIVE BODIES

The following administrative bodies have fish and wildlife management and research roles under the IFA:

- the Wildlife Management Advisory Council (North Slope);
- the Wildlife Management Advisory Council (NWT);
- the Fisheries Joint Management Committee;
- the Inuvialuit Game Council;
- the Inuvialuit Hunter’s and Trapper’s Committees;
- the Research Advisory Council; and
- the Yukon North Slope Annual Conference.

Please see section 2.1.3 for further information.

2.4.7.2 GENERAL

(Inuvialuit Final Agreement: Section 3)

The NWT Government continues to exercise its same jurisdiction over game management, subject to the IFA. The NWT Government may continue to pass game management legislation consistent with the IFA.

2.4.7.3 WILDLIFE HARVESTING AND MANAGEMENT

(Inuvialuit Final Agreement: Section 14)

The Inuvialuit have certain preferential rights to harvest wildlife in the Western Arctic Region, subject to laws of general application concerning public safety and conservation.

Subject to the IFA, the harvesting rights include:

- preferential right to harvest all species of wildlife (except migratory non-game birds and migratory insectivorous birds), for subsistence usage throughout the Western Arctic Region;
- exclusive right to harvest furbearers (including black and grizzly bears) throughout the Western Arctic Region;
- exclusive right to harvest polar bears and musk-oxen throughout the Western Arctic Region; and
- exclusive right to harvest game on Inuvialuit lands and, if agreed on, other areas.

When setting quotas and conservation limits, subsistence harvesting rights extended to other Native peoples under the IFA shall be taken into account.

The IFA places conditions on the Inuvialuit, to permit non-Inuvialuit to harvest game, polar bears and furbearers in Western Arctic Region.

The IFA sets out rights to trade game products and fish and marine mammal products.

The Inuvialuit and Aboriginal groups in adjacent land claim areas may enter into agreements concerning wildlife harvesting and management.

Through land claim settlements, Canada may provide other Aboriginal peoples with harvesting rights to certain wildlife species in the Inuvialuit Settlement Region. These may only be limited to species and areas traditionally used by those other Aboriginal peoples. These rights in the Inuvialuit Settlement Region must follow the same conditions as apply to the Inuvialuit, and are subject to reciprocal harvesting rights for Inuvialuit traditional species and areas in other regions.

Non-Inuvialuit Aboriginal peoples may continue to harvest their traditional wildlife species in their traditional areas of the Inuvialuit Settlement Region, on the same basis as the Inuvialuit, if the same privilege is extended to the Inuvialuit outside the Inuvialuit Settlement Region.

The IFA retains some existing harvesting licence holders rights.

Certain IFA provisions that deal with wildlife harvesting in the Yukon North Slope apply to wildlife harvesting in other areas.

2.4.7.4 FISHERIES

(Inuvialuit Final Agreement: Section 14)

These provisions in the IFA apply throughout the Inuvialuit Settlement Region. The Inuvialuit have the preferential right within the Region to harvest fish for subsistence use. The Inuvialuit shall be issued non-transferable, commercial licences, subject to quotas and past harvests. The Inuvialuit also have the first priority for harvesting marine mammals within the Inuvialuit Settlement Region.

2.4.7.5 MANAGEMENT PROCESSES

(Inuvialuit Final Agreement: Section 14)

The IFA sets out principles and procedures that government will use when setting wildlife harvesting quotas.

Canada will consult with the Inuvialuit Game Council before entering into new international agreements affecting wildlife harvesting in the Inuvialuit Settlement Region.

The IFA discusses the management of caribou and other species.

2.4.8 ENVIRONMENTAL ASSESSMENT

2.4.8.1 ADMINISTRATIVE BODIES

The Environmental Impact Screening Committee and the Environmental Impact Review Board have certain environmental assessment roles in the Inuvialuit Settlement Region. Please refer to section 2.1.3 for further information.

2.4.8.2 GENERAL

(Inuvialuit Final Agreement: Section 11)

Environmental impact screening will be conducted for:

- developments likely to have a negative environmental impact in the Inuvialuit Settlement Region;
- certain developments in the Yukon North Slope region;
- developments, in Inuvialuit Settlement Regions, where the Inuvialuit request environmental screening; and

- developments where the traditional harvest of the Dene/Métis may be adversely affected, on request of the Dene/Métis or the Inuvialuit. This is subject to agreement between the Dene/Métis and the Inuvialuit.

Until environmental impact screening and review provisions of the IFA are followed, no licence or approval shall be issued permitting any proposed development.

Nothing in the environmental impact section of the IFA restricts Canada's power or obligation to carry out an environmental impact assessment and review under federal laws and policies.

2.4.9 ECONOMIC DEVELOPMENT

(Inuvialuit Final Agreement: Section 16)

The Inuvialuit have a first priority (in the Western Arctic Region) for guiding, outfitting or other commercial activities, related to wildlife, authorized by government. The preferential treatment of the Inuvialuit shall not affect the ability of any other Aboriginal group to obtain like, or better, treatment under an agreement. Until such an agreement, the priority of the Inuvialuit shall not favour the Inuvialuit over any other Aboriginal group in the Western Arctic Region. (Inuvialuit Final Agreement: Section 14)

If any other Aboriginal group is granted preferential economic treatment (affecting the Western Arctic Region), the Inuvialuit shall be granted like preferential treatment in that other

group's region, and shall be treated no less favourably in the Western Arctic Region. (Inuvialuit Final Agreement: Section 14)

The IFA gives the Inuvialuit the first right on publicly-tendered government contracts relating to activities in the Inuvialuit Settlement Region and Inuvialuit communities.

The Inuvialuit have a right to be awarded publicly tendered government contracts to develop resources on Crown lands, if they submit the best proposal.

Each application for exploration, development or production rights (on Crown lands within the Inuvialuit Settlement Region) shall consider and apply general government guidelines relating to social and economic interests, to favour Native peoples.

The Inuvialuit Development Corporation may hold up to 10 prospecting permits and 25 mining claims at any time. These are subject to special conditions.

Under the Territorial Coal Regulations, Canada will issue to the Inuvialuit local use coal permits, free of charges, to:

- explore;
- develop; and
- mine

coal in the Inuvialuit Settlement Region for community use and regional industrial use by the Inuvialuit Development Corporation.

